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EXAMINER

LEWIS, RALPH A

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Please find below and/or attached an Office communication concerning this application or proceeding.

Acknowledgement of Election

Applicant's election without traverse of Species I – Figures 1-5 is acknowledged. Applicant indicates that claims 1-27, 31, 33-50, 53, 54 and 56 read on Species I. Claims 28-30, 32, 51, 52, 55, 57 and 58 are withdrawn from further consideration as being directed to a non-elected invention.

Rejections based on 35 U.S.C. 112, second paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 44 and 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 44, there is no antecedent basis for "the mesh."

In claim 50, it is unclear how the intended use of a particular adhesive has anything to do with the claimed "method of constructing" of the parent claim. Moreover, it is unclear what constitutes "an adhesive of unconventionally low elastic modulus."

Rejections based on Prior Art

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9, 10, 12, 13, 15, 24-27, 31, 35, 37-41, 49, 50, 53 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al (US 4,068,379).

Miller et al disclose that it is known in the prior art to provide orthodontic brackets with a mesh screen spot welded to the base of the bracket (column 1, line 55-57). Miller et al further disclose that the number of spot welds between the bracket and the mesh determine the flexibility of the mesh pad and that it is known to provide only a few spot welds which results in increased flexibility (see column 2, lines 8-14). In regard to claim 24, the mesh of the prior art discussed by Miller et al meets the bonding structure limitation, the body of the bracket meets the external surface limitation and the limited spot welding connection between bracket and the mesh meets the resilient interface limitation.

Claims 1, 3-6, 9, 10, 15, 24-26, 33-35, 37, 39-41, 45, 49, 50, 53 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Kesling (US 5,263,859).

Kesling discloses an orthodontic bracket 16 having a flexible bonding structure 15 which inherently provides for a compliant attachment to the tooth.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 11, 14, 16-23, 33, 34, 36, 42-48 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (US 4,068,379).

Miller et al are unclear as to the explicit structure of the bracket with spot welded mesh discussed in the prior art at column 1, line 55 – column 2, line 15. However, in regard to claims 6, 14, 16, 45 one of ordinary skill in the art would have been motivated to provide for a few spot welds along the edge of the bracket and the mesh so that the edges are secured and the bracket will not separate from the mesh along the edges. In regard to claims 7 and 8, 11, 47 to have provided for a conventional metal sheet base 18 as in the Miller et al embodiment of Figure 3 would have been obvious to one of ordinary skill in the art. In view of the Figure 3 embodiment as a conventional construction. In regard to claims 33, 34, Figure 3 of Miller et al illustrates conventional tapered tie wings on a dental bracket, the use of which would have obvious to the ordinarily skilled artisan in the spot welded bracket discussed in the prior art.


Prior Art

Schinhammer (US 4,094,068), Forster (US 4,256,455), Maurer et al (US 4,544,353), baurmash (US 4,904,188), Forster (US 5,746,593) and Devanathan (US 6,749,426) are made of record.

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Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R. Lewis
September 26, 2006



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Au 3732